

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

GEORGE A. JACKSON, et al.,)	
)	
Plaintiffs,)	
)	
v.)	C. A. No. 05-823-***
)	
STANLEY TAYLOR, et al.,)	JURY TRIAL REQUESTED
)	
Defendants.)	

**DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION
FOR PERMISSION TO ENTER AND INSPECT KITCHEN**

Defendants hereby oppose Plaintiff's Motion for Permission to Enter and Inspect Kitchen [D.I. 178], and in support thereof, state as follows:

1. Plaintiffs in this *pro se* prisoner civil rights action complain about conditions in the Main Kitchen at Sussex Correctional Institution ("SCI") in Georgetown, Delaware.
2. Plaintiff George Jackson¹ ("Mr. Jackson") has filed a Motion requesting Defendants' permission to enter the Main Kitchen in order to inspect, measure, survey, photograph and test the exhaust ventilation units. Mr. Jackson is currently an inmate incarcerated at SCI.
3. As set forth in the Affidavit of SCI's Acting Warden Michael Deloy, Mr. Jackson's request presents serious security concerns. *See* Exhibit A attached hereto.
4. If Plaintiff is permitted to photograph and diagram an area of the kitchen, he may obtain information useful in the potential hiding or transfer of contraband or in

¹ Plaintiff George Jackson identifies himself as the "representative of the plaintiffs' class." However, this matter has not been certified as a class action and, as a non-attorney, Mr. Jackson cannot represent the Plaintiffs. The pending Motion is signed by Mr. Jackson only.

the planning of an escape. He will then be able to share this information with other inmates.

5. Certain types of contraband, such as drugs or weapons, present serious security risks for the institution.

6. For these reasons, pursuant to SCI practice, inmates are not permitted the type of access to the facility requested by Mr. Jackson.

7. While Mr. Jackson would like to inspect the exhaust system, he is not entitled to do so. He has pointed to no authority suggesting that he has a right to the type of discovery he has requested.

8. Further, Mr. Jackson has presented no information suggesting that he is even qualified to “test” the operation of the exhaust system. In fact, Mr. Jackson has moved for appointment of an expert “with special skill or experience” to inspect the system. [D.I. 165]. Thus, there is no basis for concluding that Mr. Jackson’s inspection would advance his claims.

9. The United States Supreme Court has held that “[p]rison administrators should be accorded wide-ranging deference in the adoption and execution of policies and practices that in their judgment are needed to preserve internal order and discipline and to maintain institutional security. Such considerations are peculiarly within the province and professional expertise of corrections officials, and, in the absence of substantial evidence in the record to indicate that the officials have exaggerated their response to these considerations, courts should ordinarily defer to their expert judgment in such matters.” *Bell v. Wolfish*, 441 U.S. 520, 547-48 (1979).

10. In a prison setting, the presence of contraband, and the risk of inmate escape, present significant and obvious security dangers. Those dangers outweigh any interest Mr. Jackson might have in inspecting the Main Kitchen's exhaust system. *See Neumeyer v. Beard*, 421 F.3d 210, 214 (3d Cir. 2005) (upholding prison's practice of engaging in suspicionless searches of visitors' vehicles to prevent smuggling of contraband). Thus, Mr. Jackson's request for access to the kitchen must be denied.

WHEREFORE, Defendants respectfully request that this Court deny Plaintiff's Motion for Permission to Enter and Inspect Kitchen.

**STATE OF DELAWARE
DEPARTMENT OF JUSTICE**

/s/ Eileen Kelly

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Date: May 7, 2007

CERTIFICATE OF SERVICE

I hereby certify that on May 7, 2007, I electronically filed *Defendants' Response to Plaintiff's Motion for Permission to Enter and Inspect Kitchen* with the Clerk of Court using CM/ECF. I hereby certify that on May 7, 2007, I have mailed by United States Postal Service, the document to the non-registered parties on the attached service list.

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